

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

In re: RONALD SMITH and) OEIG Case # 11-01879
CHRISTINE ROTHWELL)
)

OEIG FINAL REPORT (REDACTED)

Below is a final summary report from an Executive Inspector General. The General Assembly has directed the Executive Ethics Commission (Commission) to redact information from this report that may reveal the identity of witnesses, complainants or informants and “any other information it believes should not be made public.” 5 ILCS 430/20-52(b).

The Commission exercises this responsibility with great caution and with the goal of balancing the sometimes-competing interests of increasing transparency and operating with fairness to the accused. In order to balance these interests, the Commission may redact certain information contained in this report. The redactions are made with the understanding that the subject or subjects of the investigation have had no opportunity to rebut the report’s factual allegations or legal conclusions before the Commission.

The Commission received a final report from the Governor’s Office of Executive Inspector General (“OEIG”) and a response from the agency in this matter. The Commission, pursuant to 5 ILCS 430/20-52, redacted the final report and mailed copies of the redacted version and responses to the Attorney General, the Governor’s Executive Inspector General and to Ronald Smith and to Christine Rothwell at their last known addresses.

The Commission reviewed all suggestions received and makes this document available pursuant to 5 ILCS 430/20-52.

FINAL REPORT

I. ALLEGATIONS AND SUMMARY

On November 1, 2011, the Office of Executive Inspector General (OEIG) received a complaint involving Department of Juvenile Justice (DJJ) Deputy Director of Operations Ronald Smith and DJJ Chief of Security for the Illinois Youth Center (IYC)-Chicago Christine Rothwell. The complaint related to Mr. Smith and Ms. Rothwell’s compliance with DJJ’s vehicle use policy and involved their use of State owned vehicles for the purpose of traveling to JJ’s Prime Time Sports Pub (JJ’s Pub) to consume alcohol and then driving State owned vehicles to non-work related destinations.

The OEIG concludes that DJJ’s vehicle use policy and State law regarding use of a State vehicle are clear—DJJ employees are prohibited from operating a State vehicle while under the influence of alcohol. The OEIG investigation revealed that Mr. Smith drank the equivalent of at least eight twelve ounce bottles of beer at JJ’s Pub over a period of five hours and twenty minutes and then drove his State vehicle. Therefore, the OEIG concludes that the allegation that

Mr. Smith violated the DJJ vehicle use policy by driving a State-owned vehicle while under the influence of alcohol is **FOUNDED**.

The OEIG further concludes that Mr. Smith violated other DJJ policies and the Illinois Administrative Code by using the State vehicle to travel to JJ's Pub for recreational purposes unrelated to official business. The OEIG therefore concludes that the allegation that Mr. Smith violated State law and departmental policy by his unauthorized use of a State-owned vehicle is **FOUNDED**.

Finally, the OEIG concludes that Mr. Smith's conduct as described above was unbecoming of a State employee, and therefore that it is **FOUNDED** that he violated departmental policy prohibiting conduct unbecoming of a State employee.

With regard to Ms. Rothwell, the OEIG concludes that she violated DJJ policy by using the State vehicle to travel to JJ's Pub for purposes unrelated to official business. Therefore, the allegation that Ms. Rothwell violated DJJ's vehicle use policy is **FOUNDED**.

II. BACKGROUND

A. Department of Juvenile Justice

The Department of Juvenile Justice (DJJ) was established in 2006 by Public Act 94-0696 (the Act). The Act allocated to DJJ the rights, powers, duties, and responsibilities of the Juvenile Division of the Department of Corrections (DOC). *See* 730 ILCS 5/3-2.5-15 (West 2012).

B. [Official 1]

[Redacted]

C. [Employee 1]

[Identifying information redacted.] [Employee 1] is also involved in "policy projects," which require her to participate in meetings with advocates and the Director regarding policy changes. [Employee 1] further stated that she is overseeing the promulgation of DJJ policies.

D. DJJ Deputy Director of Operations Ronald Smith

[Redacted]. The DDO "manages the Department's facilities Repair and Maintenance and Capital programs, food service, transportation, maintenance and grounds keeping, communications and security systems and infrastructure" More specifically, the DDO is responsible for, among other things:

- Planning, developing, directing, and monitoring the implementation of policies, rules and regulations;
- Working with the Director to formulate policies and procedures that affect the operation of facilities;

- Supervising staff by assigning and reviewing work, and recommending and imposing discipline, up to and including discharge; and
- Monitoring employee arrests and ethics enforcement related to standards of conduct of employees.

DJJ provides the DDO with a “personally assigned” State vehicle.¹ DJJ’s stated justification for assigning the DDO’s vehicle is that: “The Deputy of Operations is on call 24 hours a day, 7 days a week, including all weekends and holidays. . . . It is imperative that this position be provided with a State vehicle in their possession 24 hours a day, 7 days a week, not only for response purposes but to conduct unscheduled inspections including drills.”

E. DJJ Policies Governing Use of State Vehicles and Employee Conduct

DJJ has several policies and directives that govern the operation of State vehicles. Specifically, DJJ Administrative Directive (AD) 01.02.106 (Vehicle Use Policy) states that:

Department vehicles shall be [u]sed only for official business or in the performance of an employee’s assigned duties . . . [and o]perated in compliance with Department policies and State and federal laws, including, but not limited to, . . . those prohibiting the consumption of alcohol or drugs while driving or the operation of a vehicle while under the influence of drugs or alcohol”

If an employee engages in unauthorized use of a State vehicle, he or she must reimburse DJJ for a fraction of the miles traveled. DJJ AD 01.02.106(F)(11).

DJJ employees must also comply with State vehicle use laws that govern all State employees. Those laws require that State vehicles shall only be used “in the best interests of the State.” Ill. Admin. Code tit. 44, § 5040.350. Under State law, State employees that are performing official duties on behalf of the State are authorized to travel to “places to obtain meals, and/or other locations necessary to perform official duties.” *Id.* In contrast, State employees are unauthorized to use a State vehicle for, “transportation for shopping, meals, *entertainment, recreation* or vacation purposes *unrelated to the performance of official State business.*” *Id.* (emphasis added).

DJJ also prohibits employees from conducting themselves in a manner that is unbecoming of a State employee. DOC AD 03.02.108² (Conduct Unbecoming Policy) states that “[t]he Department shall require employees to conduct themselves in a professional manner and, whether on duty or off duty, not engage in conduct that is unbecoming of a State employee or that may reflect unfavorably on or impair the operations of the Department.”

¹ DJJ has four categories of State vehicles: 1) personally assigned vehicles; 2) designated fleet vehicles used for certain assignments; 3) designated vehicles for use only on the grounds; and 4) designated maintenance vehicles. DJJ Admin. Directive 01.02.106(F).

² DJJ has adopted numerous DOC policies and directives and is currently creating additional policies and ADs. Some of DJJ’s policies and ADs are labeled “Department of Corrections,” while others are labeled “Department of Juvenile Justice.” See 730 ILCS 5/3-2.5-50.

III. DJJ REVIEW OF MISCONDUCT

A. Complaint Received by the DJJ

On October 31, 2011, [official 1], [employee 1], and [redacted] received two separate incident reports, each of which made allegations against Mr. Smith and Ms. Rothwell. In those reports, a DJJ employee alleged that, at 3 p.m. on Sunday October 30, 2011, the reporting employee was eating at JJ's Pub, and saw Mr. Smith sitting at the bar drinking a pitcher of beer by himself. The employee further reported seeing Mr. Smith order another pitcher of beer, and saw him walk to the men's room three times. The employee stated that Mr. Smith "appeared intoxicated." The employee also saw Mr. Smith's State car parked outside.

The same employee further stated that Ms. Rothwell arrived at JJ's Pub in her State vehicle and then Ms. Rothwell and Mr. Smith departed separately in their respective State vehicles.³ The same employee then saw Ms. Rothwell go to a store, and then to her home, [redacted].

B. Statements Obtained by the DJJ

After receiving the two incident reports, DJJ staff met with Mr. Smith and Ms. Rothwell.

i. Meeting with Mr. Smith on October 31, 2011

On October 31, 2011, [official 1], [employee 1], and [redacted] met with Mr. Smith in the DJJ Chicago office. A memorandum [employee 1] drafted regarding this meeting stated that Mr. Smith did not dispute being at JJ's Pub. Mr. Smith said, however, that he only "drank several beers," ate food, and was never intoxicated or impaired.

ii. Meeting with Ms. Rothwell on November 1, 2011

On November 1, 2011, [official 1], [employee 1], [redacted], and a DJJ IYC-Chicago Superintendent met with Ms. Rothwell in the DJJ Chicago office. A memorandum [employee 1] drafted regarding this meeting stated that Ms. Rothwell did not dispute being at JJ's Pub. Ms. Rothwell said she ordered and drank about three-fourths of a Mike's Hard Lemonade, and had a glass of water, and was never intoxicated or impaired.

IV. OEIG INVESTIGATION

During the course of the investigation the OEIG obtained, among other evidence, monthly vehicle logs, timesheets, and a liquor receipt from JJ's Pub. The OEIG also obtained a copy of a surveillance video taken from inside JJ's Pub that showed Mr. Smith entering the bar on October 30, 2011 at approximately 12:40 p.m., consuming beer at the bar, and departing the bar at approximately 6:03 p.m. The video did not depict Mr. Smith eating any food. Investigators interviewed several individuals, including a JJ's Pub bartender, Mr. Smith, Ms. Rothwell, [employee 1], and [official 1].

³ This employee repeated these same allegations to a DJJ Assistant Superintendent.

A. Interview with JJ's Pub Bartender

On November 8, 2011, approximately a week after Mr. Smith was reportedly at JJ's Pub, investigators interviewed the bartender who worked the 11:00 a.m. to 6:00 p.m. shift at JJ's Pub on October 30, 2011. The bartender stated that she recalled Mr. Smith and said that on October 30, 2011, he ordered:

- a 16 ounce glass of beer; and
- three 56 ounce pitchers of beer.

The bartender stated that Mr. Smith shared some of the pitchers of beer he ordered with another JJ's Pub patron. The bartender also stated that Mr. Smith *did not* order any food and used a "Double Deal coupon worth \$10" to pay a portion of his bill. The bartender stated that no other patrons used a \$10 Double Deal coupon on October 30, 2011. She further stated that she did not believe Mr. Smith was impaired when he left JJ's Pub.

During the interview the bartender reviewed JJ's Pub cash receipts and identified Mr. Smith's receipt. The receipt reflects that on October 30, 2011, Mr. Smith purchased:

[One] 16 oz Bud Light	2.75
[Three] \$6 BUD LIGH[T] PITC[HERS]	18.00
[One] Mikes Hard	4.00
Cash	14.75
Liquor	24.75
DOUBLE DEAL	
Open \$ Liq	10.00-
PAYMENT	14.75

B. Interview with DJJ Chief of Security Christine Rothwell

Investigators interviewed DJJ Chief of Security Ms. Rothwell. Ms. Rothwell stated she is one of three Duty Administrative Officers (DAO) at IYC-Chicago. Ms. Rothwell explained that when she is the DAO, among other duties, she is on-call and responsible for physically reporting to DJJ facilities as necessary.

Ms. Rothwell stated that on October 30, 2011, she was the DAO and worked from 12:45 p.m. until 4:45 p.m. at the IYC-Chicago facility. After her shift, she took a State vehicle⁴ and drove to JJ's Pub where she met Mr. Smith.⁵ Ms. Rothwell said that when she arrived at JJ's Pub, Mr. Smith had a glass of beer in front of him but did not appear to be intoxicated.

Ms. Rothwell said she drank less than one bottle of "Mike's Hard Lemonade," left after approximately thirty minutes and then went to a store to purchase work-related items, and then

⁴ Ms. Rothwell left her personal vehicle at work.

⁵ Ms. Rothwell described Mr. Smith as her friend and said he supervises her supervisor.

drove home. Ms. Rothwell also stated that JJ's Pub and the store she went to were en-route to her home.

C. October 30, 2011 Surveillance Video Footage at JJ's Pub

Investigators obtained a copy of the surveillance video from JJ's Pub. The surveillance video captured the activity that occurred at JJ's Pub on October 30, 2011, from approximately 12:30 p.m. until 6:30 p.m.⁶ The surveillance video reveals that Mr. Smith arrived at JJ's Pub at about 12:40 p.m. and left at about 6:03 p.m. Specifically, the video depicts Mr. Smith:

- drinking a 16 ounce glass of beer by himself;
- drinking an entire 56 ounce pitcher of beer by himself; and
- sharing three additional 56 ounce pitches of beer⁷ with a JJ's Pub patron.

The video did not show that Mr. Smith ate any food while he was at the bar. Investigators estimate that while at JJ's Pub, Mr. Smith drank no less than the equivalent of about eight, twelve ounce bottles of beer, and may very well have drank more than that. The surveillance video reveals that Mr. Smith exited from the view of the surveillance camera on about seven occasions and then returned to the bar after a few minutes each time.

The surveillance video shows that at approximately 5:45 p.m., Ms. Rothwell is seen arriving at JJ's Pub and sitting next to Mr. Smith. The surveillance video shows Ms. Rothwell drinking a bottled drink and also shows Mr. Smith giving the bartender a piece of paper a few minutes before he and Ms. Rothwell left the bar at about 6:03 p.m. In total, Mr. Smith was at JJ's Pub for about five hours and twenty minutes.

D. Interview with [Employee 1]

i. DJJ Policies Regarding Employee Conduct

[Employee 1], [identifying information redacted], stated it is not considered "official business" or in the performance of an employee's assigned duties, for an employee to use a State vehicle for the purpose of traveling to a bar to drink alcohol for about six hours.⁸

[Employee 1] said she probably would not expect a person to operate a State vehicle after consuming eight bottles of beer because that person would probably be impaired. [Employee 1] explained that her basic understanding is that anything beyond one drink per hour probably results in impairment.

[Employee 1] also stated that the DJJ policies are clear enough that an employee would know he or she would be in violation of policy if he or she went to a bar with a State vehicle and consumed eight, twelve ounce bottles of beer over a period of five hours, without consuming

⁶ The surveillance video time-stamp is twelve hours behind, and is in military time.

⁷ As reflected above, Mr. Smith only paid for three of the four pitchers of beer. Investigators believe the JJ's Pub patron sitting next to Mr. Smith may have paid for the fourth pitcher of beer.

⁸ Mr. Smith was actually at the bar for approximately five hours and twenty minutes.

food. [Employee 1] stated that this conduct is very serious because it is a violation of the law and puts the employee and others at risk.

ii. Mr. Smith's Conduct on October 30, 2011

Investigators informed [employee 1] that a surveillance camera at JJ's Pub captured Mr. Smith's conduct from his arrival at 12:40 p.m., until he left at 6:03 p.m., and showed him drinking beer over a five hour period.

According to [employee 1], there would be no doubt that this conduct would be a violation of DJJ's policy. [Employee 1] stated that no employee would think that the policy was so unclear that this conduct would allow him to operate a State vehicle. [Employee 1] stated that the legal impairment is not the only issue, but that it is also a breach of appropriate standards of conduct to sit at a bar for over five hours.

E. Interview with [Official 1]

On May 11, 2012, investigators interviewed [official 1]. [Redacted]. According to [official 1], Mr. Smith is on-call 24 hours a day, and is expected to respond to calls on any day or time of the week. Mr. Smith also oversees all of DJJ's investigations.

i. [Official 1's Meeting with Mr. Smith on October 31, 2011]

[Official 1] confirmed that on October 31, 2011, he had a meeting with Mr. Smith and others after receiving information that Mr. Smith, among other things, consumed alcohol at a bar the day before. At that meeting, [official 1] stated he did not make any determinations about Mr. Smith's conduct, but discussed with Mr. Smith the importance of being a leader, and of appearance and perception.

ii. DJJ's Vehicle Use Policies

[Redacted].⁹ [Official 1] stated that he expected employees to use their best judgment in determining which locations to visit with a State vehicle, and said there is no specific restriction on where an employee can go when they are out-of-town on business, for example to the store for personal items or to a restaurant.¹⁰

[Official 1] also informed investigators that he thought the Vehicle Use Policy was unclear and that the unclear policy would make it difficult to hold employees accountable, for

⁹ [Official 1] was unable to explain why Mr. Smith's personally assigned State vehicle had standard license plates, as opposed to State plates that reveal the vehicle is a State vehicle. In fact, [official 1] said he was unaware of the portion of DJJ AD 01.02.106 that requires approval from the Director of CMS in order to use standard license plates.

¹⁰ [Official 1] was unaware of Governor Pat Quinn's April 12, 2010 Memorandum entitled, "Policy Regarding Individual Assignment of State Vehicles," which states in part that State vehicles are not authorized to be used for "transportation for shopping, meals, entertainment, recreation or vacation purposes unrelated to the performance of official State business" Ill. Admin. Code tit. 44, § 5040.350.

example, if an employee filed a grievance. When asked about DJJ's vehicle policies, the following exchange took place:

OEIG Investigator: *So what you're saying is that, your own policy is so unclear, that it may allow somebody to consume alcohol for five hours and then operate a State vehicle, is that your position?*

[Official 1]: *It may, it may.*

OEIG Investigator: *Okay.*

[Official 1]: *It may. And please note that that's why we're aggressively looking to change these policies so that it can be more specific. So it won't be that gray area. And it won't be whether it may allow or not.*

[Official 1] also later stated, "[a]nd my position is, is that this policy is not clear as it pertains to the consumption and use of alcohol and its *[sic]* subsequent use of a State vehicle. It needs to be clarified, it needs to be modified."

iii. *Mr. Smith's Conduct on October 30, 2011*

Investigators informed [official 1] that a JJ's Pub surveillance video captured Mr. Smith's October 30, 2011 conduct between his 12:40 p.m. arrival and his 6:03 p.m. departure. [Official 1] was also informed that the video depicted Mr. Smith drinking the equivalent of at least nine¹¹ twelve ounce bottles of beer without eating any food. After informing [official 1] of this information, [official 1] was asked if Mr. Smith's conduct violated DJJ's Vehicle Use Policy and he responded, in part:

. . . I can't tell him well, well you violated the policy. I can talk to him about the fact that it was extremely poor judgment, it was not a wise decision, it's not something that's becoming of an Executive Staff person of the Department of Juvenile Justice. That's what I've already addressed with him. But I can't specifically say that you violated the policy because the policy does not specifically address how much alcohol that one drinks and, and, then operates a vehicle. So I couldn't be that specific. But do I condone this? No sir.

[Redacted].

F. Interviews with DJJ Deputy Director of Operations Ronald Smith

Investigators conducted two interviews with Ronald Smith. The first interview took place on April 12, 2012, and the second interview took place on May 14, 2012.

i. *April 12, 2012 Interview*

¹¹ The OEIG asked [official 1] what his determination would be based on an employee who consumed the equivalent of nine bottles of beer.

During his April 12, 2012 interview, Mr. Smith stated that he has been a State employee since 1984 and has held the position of DJJ Deputy Director of Operations since July 2011. In his current position, Mr. Smith supervises the superintendents of eight IYC facilities, which includes reviewing suspension and disciplinary recommendations of employees. Mr. Smith stated that he is required to be familiar with DJJ's vehicle use policies.

Investigators asked Mr. Smith about DJJ's vehicle policies, specifically, restrictions on the use of State vehicles. In response, Mr. Smith stated that there were *no restrictions* on where he could go with his personally assigned State vehicle, but that "you have to be smart" about what you are doing. Mr. Smith also stated that he has had recent conversations with [official 1] about his (Mr. Smith's) use of the State vehicle and [official 1] could not explain restrictions of State vehicles.

Mr. Smith stated that he is on-call 24 hours a day, including Sundays and that on Sunday, October 30, 2011, he was working and driving a State vehicle. Mr. Smith stated that he did not reimburse the State for the miles he drove his State vehicle to JJ's Pub because he was "still under official capacity as far as [he] was concerned." In fact, Mr. Smith stated that he has never reimbursed the State for miles driven. Mr. Smith told investigators that after stopping at JJ's Pub, he drove his State vehicle [redacted].

ii. May 14, 2012 Interview of Mr. Smith

a. Mr. Smith's Understanding of DJJ Policies

During his May 14, 2012 interview, investigators again asked Mr. Smith about DJJ's Vehicle Use Policy as it related to the consumption of alcohol. Mr. Smith stated that his understanding is that under the policy he can consume alcohol and then operate a State vehicle. Mr. Smith stated that the policy does not explicitly state how much alcohol a DJJ employee can consume prior to operating a State vehicle.

Mr. Smith stated that, in the twelve-month period prior to October 30, 2011, he had consumed alcohol and then operated a State vehicle approximately two or three other times. Investigators asked Mr. Smith how he determines how much alcohol he could consume prior to operating a State vehicle. In response, Mr. Smith stated that prior to October 31, 2011, no one had set a limit on how much he could consume. In addition, Mr. Smith stated that during his October 31, 2011 meeting with DJJ management he was told that the employees cannot drive a State vehicle "under the influence" and that the legal limit is .08.

b. JJ's Surveillance Video

Investigators informed Mr. Smith that the JJ's Pub surveillance video camera captured his activities on October 30, 2011. After viewing portions of the video, Mr. Smith said he would not dispute that he was at JJ's Pub for about five hours and twenty minutes, consumed alcohol, did not eat any food, and then drove his State vehicle, but said he was not intoxicated when he left the bar nor was he over the .08 legal limit.

Mr. Smith stated that on October 30, 2011, he made the determination that the amount of alcohol he consumed at JJ's Pub did not *in any way* impair or intoxicate him such that he would be prevented from operating a State vehicle. During his interview, Mr. Smith was asked how he determines whether he is intoxicated and said he determines whether he is intoxicated based on many factors, including:

- how much alcohol he consumes;
- the time period; and
- how he feels.

Mr. Smith told investigators that he had not intended to travel to JJ's Pub on October 30, 2011. When asked why he had a JJ's Pub coupon, Mr. Smith stated he had previously printed a coupon from his computer but was unable to recall when he printed the coupon, other than to say it had been about seven months before the OEIG May 14, 2012 interview.

c. Mr. Smith's Assessment of His Conduct

Mr. Smith said that it would be inappropriate to travel to JJ's Pub for the sole purpose of consuming alcohol and stay for five hours and thirty minutes, but that he had not traveled to JJ's Pub only to consume alcohol. Mr. Smith stated that he did not violate DJJ's Conduct Unbecoming Policy.

At the end of the interview Mr. Smith stated, among other things, that:

- he may have exercised bad judgment;
- he will take responsibility for his actions; and
- it was not his intent to go to a bar to consume alcohol, but to watch football.

Mr. Smith further stated that DJJ's policies *need to be clear* if the Department does not want employees to consume alcohol. Mr. Smith stated [redacted], but he had not been disciplined or provided guidance about restrictions relating to the use of State vehicles.

IV. ANALYSIS

The OEIG investigation revealed that Mr. Smith: 1) operated a State vehicle in violation of the Illinois Administrative Code and DJJ policy; 2) engaged in conduct unbecoming of a State employee; and 3) did not reimburse DJJ for miles traveled to JJ's Pub for the sole purpose of consuming alcohol and watching football.

The investigation also revealed that [official 1] believes DJJ's Vehicle Use Policy is unclear. Finally, the investigation reflects that Ms. Rothwell operated a State vehicle in violation of DJJ policy.

A. Mr. Smith's Conduct Violated DJJ Policy and State Law

The investigation revealed that the following facts regarding Mr. Smith's conduct on Sunday, October 30, 2011 are undisputed. Mr. Smith:

- drove his State vehicle to JJ's Pub with a pre-printed coupon;
- arrived at JJ's Pub at about 12:40 p.m. and left at about 6:03 p.m.;
- drank the equivalent of at least eight twelve ounce bottles of beer;
- did not eat any food at JJ's Pub; and
- thereafter drove his State vehicle.

[Employee 1] said it best—DJJ policies are clear enough that an employee would know he would be in violation of DJJ policy if he drove a State vehicle to a bar, drank eight twelve ounce bottles of beer over a period of five hours without consuming food, and then operated a State vehicle. The OEIG agrees. Moreover, the OEIG also agrees with [employee 1's] assessment that this conduct is very serious because it is not only a violation of the law but it puts the employee and others at risk. Further, Mr. Smith would have been unable to effectively respond to an incident on October 30, 2011, and therefore was unable to carry out the purpose behind him having a personally assigned State vehicle and being on-call 24 hours a day.

i. Mr. Smith Violated the Policies and Laws Regarding the Use of State Vehicles

DJJ mandates that “[d]epartment vehicles shall be . . . [u]sed only for official business or in the performance of an employee's assigned duties.” DJJ AD 01.02.106(F)(3)(a). Further, the Illinois Administrative Code states that unauthorized use of a State vehicle includes, “transportation for shopping, meals, *entertainment, recreation* or vacation purposes *unrelated to the performance of official State business*.” Ill. Admin. Code tit. 44, § 5040.350(b)(1) (emphasis added).

As noted above, Mr. Smith traveled to JJ's Pub with a pre-printed coupon for a purpose wholly unrelated to the performance of official State business: to drink alcohol and watch a football game. Mr. Smith's travel to JJ's Pub was not State related, but rather was solely for “recreation” or “entertainment.”

Even if Mr. Smith had been driving his State vehicle on October 30, 2011 because he needed to be away from his home, this fact does not excuse his misconduct. Whether or not Mr. Smith may have been on official business for some part of the day on October 30, 2011, he was unquestionably not on official business when he drove to a bar for the sole purpose of drinking beer and watching football games for over five hours. It is of particular concern that Mr. Smith, a very high-ranking DJJ employee who is responsible for not only knowing DJJ policies but enforcing them in relation to other DJJ employees, believes the Vehicle Use Policy is so unclear that his conduct was proper. In any event, despite his protestations, the OEIG concludes that the allegation that Mr. Smith violated Illinois Administrative Code and DJJ policy governing authorized use of State vehicles because he used his State vehicle solely for recreation and entertainment purposes is **FOUNDED**.

Mr. Smith's misconduct also violated another section of DJJ's Vehicle Use Policy. The policy requires State vehicles to be "operated *in compliance with Department policies* and State and federal laws including, *but not limited to* . . . those prohibiting the consumption of alcohol or drugs while driving or the operation of a vehicle while under the influence of drugs or alcohol." DJJ AD 01.02.106(F)(3)(c) (emphasis added).

Mr. Smith's operation of a State vehicle after consuming the equivalent of approximately eight twelve ounce bottles of beer in a five hour and twenty minute period without eating any food no doubt caused him to be under some influence of alcohol. Though Mr. Smith claimed his consumption of alcohol did not affect him, there is little doubt that his consumption of that amount of beer rendered him under some influence of alcohol. Notably, DJJ's Vehicle Use Policy prohibiting the operation of a State vehicle while under the influence of alcohol is not narrowly limited to prohibiting an employee from driving a vehicle only when he or she is above the Illinois legal limit of .08 (blood alcohol level). Rather, the policy broadly prohibits driving *under the influence* of alcohol. Therefore, the allegation that Mr. Smith violated DJJ's policy regarding the operation of a State vehicle is **FOUNDED**.

DJJ policy requires "[e]mployees who use State vehicles for purposes other than official state business [to]. . . [r]eimburse the Department for each fraction of a mile traveled during the unauthorized use." DJJ AD 01.02.106(F)(11)(b). Mr. Smith's trip to JJ's Pub was unauthorized use of the State vehicle. Mr. Smith stated that he has not reimbursed the State for the miles he traveled on October 30, 2011. Therefore, the allegation that Mr. Smith violated the DJJ policy that requires employees to reimburse it for miles traveled during unauthorized use is **FOUNDED**.

ii. *Mr. Smith Violated the Standard of Conduct Policy*

DJJ requires employees to "conduct themselves in a manner that will not reflect unfavorably on the Department and [] not engage in conduct that is unbecoming of an employee . . ." DOC AD 03.02.108. Mr. Smith's conduct clearly violated this policy. As a DJJ employee whose job responsibilities include knowing DJJ policies and guiding and enforcing standards of conduct for other DJJ employees, the OEIG finds perplexing Mr. Smith's statement that he may merely have made a bad judgment, rather than have engaged in a violation of policy. For the abovementioned reasons, the allegation that Mr. Smith's conduct on October 30, 2011, violated the requirement that DJJ employees not engage in conduct that is unbecoming of a State employee is **FOUNDED**.

B. [Official 1's] Belief that DJJ's Policies are "Unclear"

[Redacted]. [Official 1], however, expressed the view that DJJ's vehicle use policy with regard to driving under the influence of alcohol is so unclear that he cannot effectively enforce that policy as currently drafted. In fact, [official 1] expressed the view that the DJJ policy is so unclear that an employee may believe that he or she could consume the equivalent of eight or more bottles of beer over a five-hour period and then operate a State vehicle without being in violation of that policy.

The OEIG concludes that despite [official 1's] confusion about DJJ's Vehicle Use Policy—it is clear. The policy prohibits “the operation of a [State-owned] vehicle while under the influence of drugs or alcohol” Under that policy, no Agency Director or State employee should believe that he or she can consume the amount of beer Mr. Smith consumed and then operate a State vehicle. In light of [official 1's] equivocation, the OEIG is referring this matter to the Office of the Governor for appropriate action [redacted].

C. Ms. Rothwell Violated DJJ Policy

The OEIG investigation revealed that Ms. Rothwell drove a State vehicle to JJ's Pub on her way home from work, consumed less than a full bottle of alcohol, drove to a store to obtain work-related items, and then drove home. Ms. Rothwell's conduct of traveling to JJ's and consuming alcohol was unrelated to the performance of official State business.¹² Therefore, although Ms. Rothwell was authorized to use the State vehicle on October 30, 2011, her trip to JJ's Pub was unauthorized. Thus, the allegation that Ms. Rothwell violated DJJ's Vehicle Use Policy is **FOUNDED**.

V. CONCLUSIONS

As a result of its investigation, the OEIG issues the following findings:

- **FOUNDED** – Mr. Smith violated Ill. Admin. Code tit. 44, § 5040.350(b)(1), when he engaged in unauthorized use of a State vehicle, by traveling to JJ's Pub to consume alcohol, consumed alcohol for over five hours, and thereafter drove the State vehicle.
- **FOUNDED** – Mr. Smith violated DJJ AD 01.02.106(F)(3)(a) when he used his State vehicle to go to JJ's Pub, which was not part of official business or in the performance of his assigned duties.
- **FOUNDED** – Mr. Smith violated DJJ AD 01.02.106(F)(3)(c) when he traveled to JJ's Pub to consume alcohol, consumed alcohol for over five hours, and thereafter drove the State vehicle.
- **FOUNDED** – Mr. Smith violated DJJ AD 01.02.106(F)(11)(b) by failing to reimburse DJJ for miles he traveled during unauthorized use of the State vehicle on October 30, 2011.
- **FOUNDED** – Mr. Smith violated DOC AD 03.02.108 when he engaged in conduct unbecoming of a State employee.

¹² Ms. Rothwell's conduct is mitigated by the fact that she was only at JJ's for approximately fifteen minutes rather than thirty minutes as she had thought, and consumed less than one alcoholic drink.

- **FOUNDED** – Ms. Rothwell violated DJJ AD 01.02.106(F)(3)(a) when she used her State vehicle to go to JJ's Pub, which was not part of official business or in the performance of her assigned duties.

Based on the results of this investigation the OEIG recommends that Mr. Smith be disciplined.

The OEIG recommends that Ms. Rothwell be counseled.

The OEIG further recommends that in light of [official 1's] conclusion that DJJ's Vehicle Use Policy is unclear and in light of the seriousness of Mr. Smith's misconduct, that the Office of the Governor impose the appropriate discipline recommended in this Report and take whatever additional action they deem appropriate.

No further investigative action is needed, and this case is considered closed.

Date: **August 31, 2012**

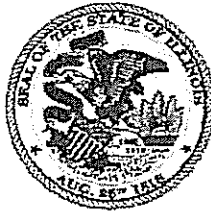
Office of Executive Inspector General
for the Agencies of the Illinois Governor
32 W. Randolph Street, Ste. 1900
Chicago, IL 60601

By:

Christine P. Benavente
Assistant Inspector General, #156

Lance Mrock
Senior Investigator, #132

Chris Noel
Investigator, #109



STATE OF ILLINOIS
OFFICE OF THE GOVERNOR
SPRINGFIELD, ILLINOIS 62706

Pat Quinn
GOVERNOR

CONFIDENTIAL

VIA U.S. MAIL AND E-MAIL

September 20, 2012

Erin K. Bonales
Deputy Inspector General
Office of the Executive Inspector General
32 W. Randolph Street, Suite 1900
Chicago, IL 60601

Re: Response to Final Report in OEIG Case No. 11-01879

Dear Ms. Bonales:

Enclosed is the response of the Office of the Governor ("OOG") to the Office of the Executive Inspector General's ("OEIG") Final Report in Case No. 11-001879.

Please let us know if you have any questions or if we can provide any additional information.

Sincerely,

John F. Schomberg
General Counsel

Enclosures

cc: Jack Lavin, Chief of Staff, OOG (via email, w/ encl.)



Office of Executive Inspector General
for the Agencies of the Illinois Governor
www.inspectorgeneral.illinois.gov

OEIG RESPONSE FORM

Case Number: 11-01879

**Due Within 20 Days of Receipt of
Report**

Please check the box that applies.

- ☐ We have implemented all of the OEIG recommendations.
(Provide details regarding action taken.)

See attached

- ☐ We will implement all of the OEIG recommendations but will require additional time.
We will report to OEIG within 30 days from the original return date.
(Provide details regarding action planned / taken.)

(over)

- ☐ We are implementing one or more of the OEIG recommendations, however, we plan to depart from other OEIG recommendations.

(Provide details regarding action planned / taken and any alternate plan(s).)

- ☐ We do not wish to implement any of the OEIG recommendations.
(Explain in detail why and provide details of any alternate plan(s).)

Signature

John Schomberg

Print Name

Office of the Governor, General Counsel
Print Agency and Job Title

Sept. 20, 2012
Date

ADDENDUM TO OEIG RESPONSE FORM IN CASE NO. 11-01879

The Office of the Governor (OOG) has the following response, implementing, as applicable, the OEIG's recommendations to address the issues identified in the OEIG's Final Report in Case No. 11-01879:

1. OEIG Recommendation: For Ronald Smith to be disciplined.

OOG Response: Based on several of the findings in the OEIG Report, Mr. Smith will receive a three-day suspension as well as counseling regarding the use of state vehicles.

2. OEIG Recommendation: For Christine Rothwell to be counseled.

OOG Response: Based on the OEIG Report's findings, Ms. Rothwell will receive counseling regarding her future use of state vehicles.

3. OEIG Recommendation: "[I]n light of [Official 1's] conclusion that DJJ's Vehicle Use Policy is unclear and in light of the seriousness of Mr. Smith's conduct," for the Office of the Governor to "take whatever additional action [is deemed] appropriate"

OOG Response: The Office of the Governor will work with the Department of Juvenile Justice (the "Department") to clarify and further restrict the Department's Vehicle Use Policy as it relates to alcohol, and to amend the Vehicle Use Policy as necessary to clarify restrictions on personal use of state vehicles by on-call employees. Upon the amendment of the Vehicle Use Policy, the Department's General Counsel will provide training to all senior management in the Department, to ensure full compliance with and accurate enforcement of the amended Policy. Likewise, the Department will alert all Department employees to the new policy.

If you have any questions, please feel free to call Office of the Governor General Counsel John Schomberg, at .